

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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MATTEL, INC.,

Plaintiff,

22-cv-561 (PKC)

-against-

ORDER

AAUSA STORE, INC., et al.,

Defendants.

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CASTEL, U.S.D.J.

On March 8, 2022, plaintiff Mattel, Inc. (“Mattel”) moved for the entry of default judgment against all defendants in this case. (Docket # 28.) On March 25, 2022, an attorney filed a motion to appear on behalf of all defendants pro hac vice, and the Court granted the motion on March 29, 2022. (Docket # 32, 35.) In a letter-motion requesting an extension of time to answer or move, defense counsel explained that defendants are located in China, are not native English speakers, and required additional time to identify the existence of this case and retain counsel. (Docket # 33.) Defendants filed an Answer on April 15, 2022. (Docket # 36.) The Court held an Initial Pretrial Conference on June 1, 2022, after which it entered a Case Management Plan and Scheduling Order, with a discovery cut-off in September. (Docket # 44.)

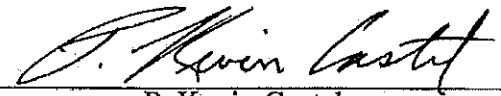
Mattel has not withdrawn the motion for default judgment and defendants have not responded to the motion. No party made reference to the default motion at the Initial Pretrial Conference.

“Default procedures, of course, provide a useful remedy when a litigant is confronted by an obstructionist adversary. . . . Yet, because defaults are generally disfavored and are reserved for rare occasions, when doubt exists as to whether a default should be granted

or vacated, the doubt should be resolved in favor of the defaulting party.” Enron Oil Corp. v. Diakuhara, 10 F.3d 90, 96 (2d Cir. 1993).

Here, a notice of appearance was filed on defendants’ behalf shortly after the default motion was filed, defendants have now answered, and the Court has entered a case management plan and scheduling order. Because defendants have appeared and are actively litigating this case, Mattel’s motion for the entry of default judgment is DENIED. The Clerk is directed to terminate the motion. (Docket # 28.)

SO ORDERED.



P. Kevin Castel
United States District Judge

Dated: New York, New York
June 2, 2022